

HOUSE BILL NO. 588

INTRODUCED BY ANKNEY, BERRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISTRIBUTION OF COAL GROSS PROCEEDS TAXES TO LOCAL TAXING JURISDICTIONS AND THE STATE; ESTABLISHING A BASIS FOR THE DISTRIBUTION OF COAL GROSS PROCEEDS TAXES; PROVIDING THAT COAL GROSS PROCEEDS TAXES MUST BE DISTRIBUTED ACCORDING TO THE PREVIOUS FISCAL YEAR MILL LEVIES; ELIMINATING THE DISTRIBUTION OF COAL GROSS PROCEEDS BASED ON THE UNIT VALUE CALCULATION; REMOVING THE STATUTORY APPROPRIATION OF COAL GROSS PROCEEDS TAXES; AMENDING SECTIONS 15-23-703 AND 17-7-502, MCA; REPEALING SECTIONS 15-23-705, 15-23-706, AND 15-23-707, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for county classification and ~~guaranteed tax base aid to schools~~ nontax purposes. (1) The department shall compute from the reported value of coal gross proceeds ~~from coal~~ a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against the ~~reported coal~~ gross proceeds of coal but shall levy a tax of 5% against the value of the ~~reported gross proceeds~~ coal as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

~~(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.~~

~~(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:~~

~~(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the~~

relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

~~—— (b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.~~

~~(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.~~

~~—— (b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.~~

(3) (a) Except as provided in subsection (6) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Except as provided in subsections (4) and (5), those THOSE amounts must be distributed in the relative proportions required by the levies for state, county, other than an elementary school or high school, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year AS FOLLOWS:

(I) THE STATE SHARE MUST BE DISTRIBUTED IN THE RELATIVE PROPORTIONS REQUIRED BY LEVIES FOR STATE PURPOSES IN THE SAME MANNER AS PROPERTY TAXES WERE DISTRIBUTED IN FISCAL YEAR 1990;

(II) EXCEPT AS PROVIDED IN SUBSECTION (4), THE COUNTY SHARE MUST BE DISTRIBUTED IN THE RELATIVE PROPORTIONS REQUIRED BY LEVIES FOR COUNTY PURPOSES, OTHER THAN AN ELEMENTARY SCHOOL OR HIGH SCHOOL, IN THE SAME MANNER AS PROPERTY TAXES WERE DISTRIBUTED IN THE PREVIOUS FISCAL YEAR;

(III) EXCEPT AS PROVIDED IN SUBSECTION (5), THE SCHOOL DISTRICTS' SHARE MUST BE DISTRIBUTED IN THE RELATIVE PROPORTIONS REQUIRED BY LEVIES FOR SCHOOL DISTRICT PURPOSES IN THE SAME MANNER AS PROPERTY TAXES WERE DISTRIBUTED IN THE PREVIOUS FISCAL YEAR.

~~(6)(4)~~ The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection ~~(4)(a)~~

(3)(b)(i), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year ~~1990~~.

(b) If the allocation in subsection ~~(6)(a)~~ (4)(a) exceeds the total budget ~~for~~ of a taxing unit, the commissioners may direct the county treasurer to ~~allocate~~ reallocate the excess to any taxing unit within the county.

~~(7)(5)~~ The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year ~~1990~~.

(b) If the allocation under subsection ~~(7)(a)~~ (5)(A) exceeds the total budget for a fund, the trustees may ~~allocate~~ reallocate the excess to any budgeted fund of the school district.

~~(8)(6)~~ The Except as provided in subsections (7) and (8), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(7) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (6) in the same manner as provided in subsection (4).

(8) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (6) in the same manner as provided in subsection (5)."

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

1 of the following provisions:

2 (a) The law containing the statutory authority must be listed in subsection (3).

3 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
4 appropriation is made as provided in this section.

5 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
6 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314;
7 10-4-301; 15-1-121; 15-1-218; ~~15-23-706~~; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
8 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304;
9 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
10 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202;
11 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501;
12 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108;
13 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 77-1-108;
14 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and
15 90-9-306.

16 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
17 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
18 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
19 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
20 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
21 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
22 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
23 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014;
24 pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108
25 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January
26 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last
27 recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; and pursuant to sec. 6,
28 Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 terminates June 30, 2009.)"

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30 NEW SECTION. **Section 3. Repealer.** Sections 15-23-705, 15-23-706, and 15-23-707, MCA, are

1 repealed.

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3 NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a
4 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
5 Chippewa tribe.

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7 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2009.

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9 NEW SECTION. **Section 6. Applicability.** (1) [This act] applies retroactively, as provided in 1-2-109,
10 to coal produced and sold after December 31, 2007.

11 (2) [This act] applies to coal gross proceeds taxes distributed for fiscal years beginning after June 30,
12 2009.

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